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**State Bar Court of California
Hearing Department
San Francisco**

<p>Counsel For The State Bar</p> <p>Robert A. Endries Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2357</p> <p>Bar # 187721</p>	<p>Case Number (s) 09-N-10064</p>	<p>(for Court's use)</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED <i>ADS</i></p> <p align="center">APR 15 2009</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Ernesto J. Perez P.O. Box 219 West Sacramento, CA 95691 (916) 375-1405</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 77729</p> <p>In the Matter Of: Ernesto J. Perez</p> <p>Bar # 77729</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 21, 1977**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **10** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

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- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case **07-O-13732**
 - (b) Date prior discipline effective **October 7, 2008**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **RPC 4-100**
 - (d) Degree of prior discipline **One year suspension, stayed, one year probation, 90 days actual suspension**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct. **Although respondent failed to comply with Rule 9.20, it appears that respondent notified clients of his suspension and there is no indication that respondent was practicing law during this time period.**
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. **Respondent admitted culpability and accepted responsibility for his misconduct upon first being contacted by the assigned State Bar attorney in this matter. Because this matter resolved prior to the filing of a Notice of Disciplinary Charges, State Bar and judicial resources were saved.**
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances are involved.**

Additional mitigating circumstances

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two years**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **150 days**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

E. Additional Conditions of Probation:

(1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: **Respondent ordered to attend Ethics School in case 07-O-13732, signed and filed by California Supreme Court October 7, 2008.**
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 954.9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

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No MPRE recommended. Reason: **Respondent ordered to complete MPRE in case 07-O-13732, signed and filed by California Supreme Court October 7, 2008.**

- (2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

Attachment language begins here (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Ernesto John Perez

CASE NUMBER(S): 09-N-10064

FACTS AND CONCLUSIONS OF LAW:

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

STIPULATED FACTS

1. Ernesto J. Perez ("respondent") was admitted to the practice of law in the State of California on December 21, 1977, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. Respondent violated Business and Professions Code section 6103 by willfully disobeying or violating an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, specifically, an order requiring respondent to comply with Rule 9.20 (a) and Rule 9.20(c) of the California Rules of Court, as follows:

3. On October 7, 2008, the California Supreme Court filed a disciplinary order in State Bar Court 07-O-13732 (Supreme Court Case Number S165790).

4. The disciplinary order required respondent to comply with California Rule of Court 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the order. The order also suspended respondent from the practice of law.

5. The order became effective thirty days after it was filed (California Rules of Court, rule 9.18(b)), and at all times subsequent has remained in full force and effect.

6. Notice of the rule 9.20 order was properly served upon respondent in the manner prescribed by California Rule of Court 9.18(b) at the address respondent maintained with the State Bar in accordance with Business and Professions Code section 6002.1 subdivision (a).

7. On or about November 20, 2008, the State Bar Office of Probation mailed a letter to respondent reminding respondent of the obligation to comply with rule 9.20 and enclosing an accurate copy of the rule 9.20 order as well as a form approved by the State Bar Court Executive Committee for reporting compliance with rule 9.20. The State Bar Office of Probation sent the letter and enclosures in a sealed envelope by first class mail fully prepaid. The mailing was addressed to: respondent's address as maintained by the State Bar in accordance with Business and Professions Code section 6002.1 subdivision (a). The mailing was not returned to the State Bar by postal authorities.

8. The deadlines for complying with California Rules of Court 9.20(a) and rule 9.20 (c) expired on or about December 6, 2008 and December 16, 2008, respectively.

9. Respondent willfully violated California Rule of Court 9.20 order by failing to file proof of compliance as required by California Rule of Court 9.20(c) prior to the deadline. Respondent did not notify clients, courts and opposing counsel of his suspension.

10. Respondent complied with his California Rule of Court 9.20 obligation by submitting such affidavit to the Clerk of the State Bar Court. This affidavit was received and filed by the State Bar Court on March 13, 2009.

CONCLUSIONS OF LAW

By failing to timely file an affidavit attesting to proof of compliance with California Rule of Court 9.20(a) with the Clerk of the California State Bar within the statutory period, Respondent was in violation of California Rule of Court 9.20(c).

PENDING PROCEEDINGS:

The disclosure date referred to, on page one, paragraph A.(7) was February 25, 2009.

AUTHORITIES SUPPORTING DISCIPLINE:

Standard 2.6 (b) provides that culpability of a member of a violation of Business and Professions Code 6103 shall result in disbarment or suspension depending on the gravity of the offense.

Additionally, Section 1.7 provides that if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline pursuant to standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding, unless the prior proceeding was so remote in time and minimal in severity such that imposing greater discipline would be manifestly unjust.

Further, the Supreme Court of California has previously held that despite substantial compliance with former California Rule of Court 955 (now 9.20), a six month suspension for failure to file the required affidavit was an appropriate disposition. *Durbin v. State Bar* (1979) 23 Cal.3d 461, 469.

Finally, California Rule of Court 9.20(d) states that a suspended member's willful failure to comply with the provisions of this rule is cause for disbarment or suspension and for revocation of any pending probation.

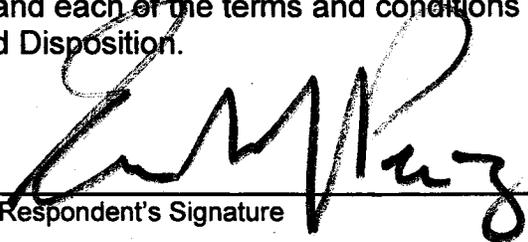
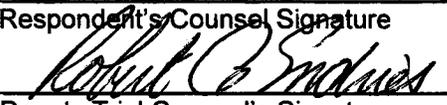
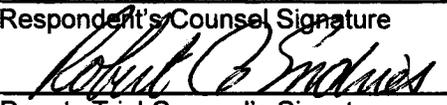
The discipline recommended and agreed upon by the parties in this matter, suspension, is appropriate here for the following reasons: (1) respondent informed clients, counsel and courts of his suspension and there is no indication respondent was practicing law during this time period; (2) respondent has been candid and cooperative with the State Bar, allowing this matter to resolve prior to the filing of a Notice of Disciplinary Charges, thereby saving State Bar and Judicial Resources.

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In the Matter of Ernesto John Perez	Case number(s): 09-N-10064
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

<u>3/9/09</u> Date	 Respondent's Signature	<u>Ernesto John Perez</u> Print Name
<u>3/26/2009</u> Date	 Respondent's Counsel Signature	<u>Robert A. Endries</u> Print Name
<u>3/26/2009</u> Date	 Deputy Trial Counsel's Signature	<u>Robert A. Endries</u> Print Name

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In the Matter Of Ernesto John Perez	Case Number(s): 09-N-10064
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Apr. 19, 2009
Date

Judy Ann
Judge of the State Bar Court
Loretta Armendariz

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on April 15, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

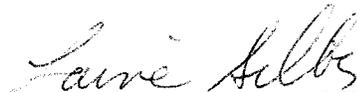
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ERNESTO JOHN PEREZ
15550 COUNTY ROAD 117
WEST SACRAMENTO, CA 95691

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ROBERT ENDRIES, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 15, 2009.



Laine Silber
Case Administrator
State Bar Court